

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4532

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, FEBRUARY 8), 2010

Received

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## AN ACT

To provide for permanent extension of the attorney fee withholding procedures under title II of the Social Security Act to title XVI of such Act, and to provide for permanent extension of such procedures under titles II and XVI of such Act to qualified non-attorney representatives.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Social Security Dis-  
5 ability Applicants’ Access to Professional Representation  
6 Act of 2010”.

7 **SEC. 2. PERMANENT EXTENSION OF ATTORNEY FEE WITH-**  
8 **HOLDING PROCEDURES TO TITLE XVI.**

9       (a) IN GENERAL.—Section 302 of the Social Security  
10 Protection Act of 2004 (Public Law 108–203; 118 Stat.  
11 519) is amended—

12           (1) in the section heading, by striking “**TEM-**  
13 **PORARY**”; and

14           (2) in subsection (c), by striking “EFFECTIVE  
15 DATE.—” and all that follows through “The amend-  
16 ments” and inserting “EFFECTIVE DATE.—The  
17 amendments”, and by striking paragraph (2).

18       (b) CLERICAL AMENDMENT.—The item relating to  
19 section 302 in the table of contents in section 1(b) of such  
20 Act is amended by striking “Temporary extension” and  
21 inserting “Extension”.

1 **SEC. 3. PERMANENT EXTENSION OF FEE WITHHOLDING**  
2 **PROCEDURES TO QUALIFIED NON-ATTORNEY**  
3 **REPRESENTATIVES.**

4 (a) IN GENERAL.—Section 206 of the Social Security  
5 Act (42 U.S.C. 406) is amended by adding at the end the  
6 following new subsection:

7 “(e)(1) The Commissioner shall provide for the exten-  
8 sion of the fee withholding procedures and assessment pro-  
9 cedures that apply under the preceding provisions of this  
10 section to agents and other persons, other than attorneys,  
11 who represent claimants under this title before the Com-  
12 missioner.

13 “(2) Fee-withholding procedures may be extended  
14 under paragraph (1) to any nonattorney representative  
15 only if such representative meets at least the following pre-  
16 requisites:

17 “(A) The representative has been awarded a  
18 bachelor’s degree from an accredited institution of  
19 higher education, or has been determined by the  
20 Commissioner to have equivalent qualifications de-  
21 rived from training and work experience.

22 “(B) The representative has passed an exam-  
23 ination, written and administered by the Commis-  
24 sioner, which tests knowledge of the relevant provi-  
25 sions of this Act and the most recent developments

1 in agency and court decisions affecting this title and  
2 title XVI.

3 “(C) The representative has secured profes-  
4 sional liability insurance, or equivalent insurance,  
5 which the Commissioner has determined to be ade-  
6 quate to protect claimants in the event of mal-  
7 practice by the representative.

8 “(D) The representative has undergone a crimi-  
9 nal background check to ensure the representative’s  
10 fitness to practice before the Commissioner.

11 “(E) The representative demonstrates ongoing  
12 completion of qualified courses of continuing edu-  
13 cation, including education regarding ethics and pro-  
14 fessional conduct, which are designed to enhance  
15 professional knowledge in matters related to entitle-  
16 ment to, or eligibility for, benefits based on disability  
17 under this title and title XVI. Such continuing edu-  
18 cation, and the instructors providing such education,  
19 shall meet such standards as the Commissioner may  
20 prescribe.

21 “(3)(A) The Commissioner may assess representa-  
22 tives reasonable fees to cover the cost to the Social Secu-  
23 rity Administration of administering the prerequisites de-  
24 scribed in paragraph (2).

1           “(B) Fees collected under subparagraph (A) shall be  
2 credited to the Federal Old-Age and Survivors Insurance  
3 Trust Fund and the Federal Disability Insurance Trust  
4 Fund, or deposited as miscellaneous receipts in the general  
5 fund of the Treasury, based on such allocations as the  
6 Commissioner determines appropriate.

7           “(C) The fees authorized under this paragraph shall  
8 be collected and available for obligation only to the extent  
9 and in the amount provided in advance in appropriations  
10 Acts. Amounts so appropriated are authorized to remain  
11 available until expended for administering the pre-  
12 requisites described in paragraph (2).”.

13           (b) CONFORMING AMENDMENTS.—

14           (1) Section 1631(d)(2)(A) of such Act (42  
15 U.S.C. 1383(d)(2)(A)) is amended—

16           (A) in clause (iv), by striking “and” at the  
17 end;

18           (B) in clause (v), by striking the period at  
19 the end and inserting “; and”; and

20           (C) by adding at the end the following new  
21 clause:

22           “(vi) by substituting, in subsection  
23 (e)(1)—

1                   “(I) ‘subparagraphs (B) and (C) of  
2                   section 1631(d)(2)’ for ‘the preceding pro-  
3                   visions of this section’; and

4                   “(II) ‘title XVI’ for ‘this title’.”.

5                   (2) Section 303(e)(2) of the Social Security  
6                   Protection Act of 2004 (Public Law 108–203; 118  
7                   Stat. 523) is amended by striking “AND FINAL RE-  
8                   PORT” in the heading and by striking the last sen-  
9                   tence.

10                  (c) EFFECTIVE DATE.—The Commissioner of Social  
11                  Security shall provide for full implementation of the provi-  
12                  sions of section 206(e) of the Social Security Act (as  
13                  added by subsection (a)) and the amendments made by  
14                  subsection (b) not later than March 1, 2010.

                  Passed the House of Representatives February 4,  
2010.

Attest:

LORRAINE C. MILLER,

*Clerk.*